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01/26/01



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

OFFICE OF  
SOLID WASTE AND EMERGENCY  
RESPONSE

January 26, 2001

Mr. Roger Truitt  
Piper Marbury Rudnick & Wolfe LLP.  
6225 Smith Avenue  
Baltimore, Maryland 21209-3600

Dear Mr. Truitt:

EPA has determined that an extension of the comment period for the Lower Duwamish Waterway is appropriate based on docket concerns. The site is proposed to the National Priorities List. The extension is for 30 days. A letter detailing EPA's rationale will be sent within the next several days.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen Caldwell", is written over a horizontal line.

Stephen Caldwell, Acting Director  
State, Tribal & Site Identification Center



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

FEB 14 2001

OFFICE OF  
SOLID WASTE AND EMERGENCY  
RESPONSE

William Roger Truitt, Esq  
Piper Marbury Rudnick & Wolfe LLP  
6225 Smith Avenue  
Baltimore, Maryland 21209-3600

Dear Mr. Truitt:

I wish to respond to you as one of the writers of several letters sent to the Environmental Protection Agency (EPA). These letters were a January 16, 2001, letter from Anne L. Long, Manager of Tytanic LLC, a January 19, 2001, letter from Mike Cassidy, President of Long Painting Company, a January 25, 2001, letter from William Roger Truitt of Piper Marbury Rudnick & Wolfe, LLP, and a January 25, 2001, letter from Kim Maree Johannessen, on behalf of Johannessen & Associates, P.S. All these letters requested a 90-day extension of the comment period for the Lower Duwamish Waterway (Duwamish) site. That site was proposed to the National Priorities List (NPL) on December 1, 2000, and the comment period was to end on January 30, 2001. EPA agrees to a 30-day extension of the comment period, to March 1, 2001. EPA had previously faxed a January 26, 2001, letter to Mr. Truitt extending the comment period, but did not include the specific reason for the extension.

EPA is granting this request because of two docket issues related to the site documentation record. The Map Folio in reference 4 of the documentation record may have been difficult to read because of the scale and color format change necessitated by being placed on CD-ROM. Additionally, a citation on page 44 of the documentation record refers to Reference 4 pages 990 through 995 for a list of property owners. While this is correct for the hard copy, the CD-ROM has this information in a separate file for Reference 4, and the page numbers on the CD-ROM are actually 993-998.

Mr. Truitt, in his January 25, 2001 letter, also was concerned with Reference 17, a summary report dated July 17, 1998, and entitled "Combined Sewer Overflow Water Quality Assessment for the Duwamish River and Elliott Bay". The reference did not include any of the three other volumes or 13 appendices that are identified in the table of contents and described as accompanying the summary report. EPA did not include those volumes and appendices because EPA did not use them in evaluating the site and determining the site Hazard Ranking System score, nor does EPA have them in its possession. EPA used only the summary. However,

should you wish to obtain the documents, they are available through King County, Washington. The County prepared the assessment. The contact is Ms. Sydney Munger, at (206) 296-1970.

I hope this addresses your concerns.

Sincerely,

A handwritten signature in cursive script, appearing to read "Stephen Caldwell".

Stephen Caldwell, Acting Director  
State, Tribal and Site Identification Center

Robert Myers  
02/28/01 03:53 PM

To: roger truitt  
cc:  
cc:  
Subject: ext for duwamish till march 6

*For 580-3277*

The extension till the 6th applies to comments from your offices as well, as EPA understands the need to coordinate issues with your clients, and it is difficult to reach them at this time.

— Forwarded by Robert Myers/DC/USEPA/US on 02/28/01 03:53 PM —

Robert Myers  
02/28/01 03:50 PM

To: Amber Wong/R10/USEPA/US@EPA, Elaine  
Davies/DC/USEPA/US@EPA, Stephen Caldwell/DC/USEPA/US@EPA,  
Sheila Igoe/DC/USEPA/US@EPA  
cc:  
Subject: ext for duwamish till march 6

I got a call from one of the attorneys in Seattle. I agreed to give them until March 6 to get their comments postmarked, given that FED EX is down and they likely need time to check personal safety issues right now.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

OFFICE OF  
SOLID WASTE AND EMERGENCY  
RESPONSE

MAR - 1 2001

Wm. Roger Truitt  
Piper Marbury Rudnick & Wolfe LLP  
6225 Smith Avenue  
Baltimore, Maryland 21209-3600

Dear Mr. Truitt:

This is in response to your letter of February 20, 2001, regarding the Lower Duwamish Waterway (Duwamish) site in Washington. You requested an additional extension of the comment period for the site. The Duwamish site was proposed to the National Priorities List (NPL) on December 1, 2000, and EPA granted a 30-day extension of the comment period based on docket concerns you highlighted in a January 25, 2001, letter to the Environmental Protection Agency (EPA). Your February 20, 2001, letter requested an additional 60 day extension of the comment period.

EPA has determined an additional extension of the comment period is unnecessary. As discussed in EPA's February 14, 2001, letter granting the 30 day extension, there were two docket issues regarding the Map Folio which justified the 30 day extension. EPA considers the additional 30 days an adequate period of time for the delay relating to the map folio. Further, with regard to your request that you have time to review EPA's full response to your FOIA request before the comment period closes, all the documents EPA relied on for the proposal are available from the public docket. As noted in the February 14, 2001, letter, EPA's policy is to extend the comment period only in cases where the materials placed in the docket were incomplete or otherwise not in order. All of the documents that EPA relied on for the proposal are available from the public docket.

In your February 20, 2001, letter, you stated that EPA provided 60 to 90 day extensions of the comment period in at least two site cases in the past, Kennecott North and South Zones and Normandy Park Apartments. These sites were proposed to the NPL in January 1994 and February 1995, respectfully. In the case of the Kennecott sites, EPA granted two extensions totaling 90 days in all due to numerous errors or inconsistencies in the public docket materials. In the case of the Normandy Park Apartments, the Agency did grant two extensions of the

comment period because of delays in providing materials to you. However, both sites were proposed to the NPL before EPA implemented procedures to streamline the NPL listing process. (See, e.g., 63 Fed. Reg. 11340-45 (March 6, 1998)). Over the past few years, EPA has implemented steps to reduce significantly the time required to complete the NPL listing process. This is one of the many ways the Agency is reducing the amount of time required to identify, evaluate and clean up sites that warrant remedial action. One of the steps EPA has taken is to implement the policy discussed above on extensions to the comment period.

With respect to your suggestion that an extension of the comment period will not present a timing problem for the Agency because other rulemakings will take precedence over this proposed rule, the Agency cannot predict whether or not promulgation of any final rule listing the Duwamish site will ultimately be delayed as a result of other Agency priorities. The possibility of such a delay is a possibility in any rulemaking process. The possibility of such a delay does not justify an extension of the comment period in this case.

The comment period for this site closes on March 6, 2001. The original extension date was March 1, 2001, but EPA has extended that time an additional 5 days at your request because of the delay created by the February 28, 2001 earthquake in Seattle. EPA will consider all comments received during this comment period before making a final decision on this site. I hope this addresses your concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Caldwell". The signature is fluid and cursive, with the first name "Steve" written in a larger, more prominent script than the last name "Caldwell".

Steve Caldwell, Acting Director  
State, Tribal and Site Identification Center

NPL-034-5-20-R10



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

OFFICE OF  
SOLID WASTE AND EMERGENCY  
RESPONSE

March 22, 2001

Wm. Roger Truitt  
Piper Marbury Rudnick & Wolfe  
6225 Smith Avenue  
Baltimore, MD 21209-3600

Dear Mr. Truitt:

The Environmental Protection Agency (EPA) proposed the Lower Duwamish Waterway site to the National Priorities List (NPL) on December 1, 2000. Based on docket concerns, the comment period was extended an additional 30 days to March 1, 2001. A February 20, 2001, request for a further extension was denied by EPA in a letter dated March 1, 2001. (The comment period was ultimately extended to March 6, 2001 because of the earthquake which struck Seattle February 28.)

Your March 6, 2001, comments on the proposed site renewed the request to extend the formal comment period for at least an additional sixty days, or alternatively at least thirty days following EPA's release of all relevant records to representatives of Tytanic and Long Painting. This thirty day period is based on information you received through Freedom of Information Requests to EPA Headquarters and Region 10.

EPA has considered your request, but believes a further extension is unnecessary for the reasons set out in EPA's letter of March 1, 2001, which is enclosed. All information EPA used to support the site score and propose the site has been available since the beginning of the comment period in the public docket. EPA will review your comments before making any final decision on this site.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Caldwell", is written over a horizontal line.

Steve Caldwell, Acting Director  
State, Tribal and Site Identification Center

Enclosure